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Joseph Halbleib

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

JOSEPH HALBLEIB,

Plaintiff,

v.

**CALIFORNIA HIGHWAY PATROL
OFFICER DALE COPPAGE, DOES 1-50,
inclusive,**

Defendants.

Case No. C 08-02657-CW

**JOINT CASE MANAGEMENT
STATEMENT
[Civil L.R. 16-9]**

Pursuant to Civil Local Rule 16-9(a), the parties to this action, plaintiff Joseph Halbleib and defendant Dale Coppage, submit this Joint Case Management Statement:

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Joint Case Mgmt. Stmt.

Joseph Halbleib v. CHP Officer Dale Coppage, et al.
Case No. C 08-02657-CW

1 **1. Jurisdiction and Service:**

2 This action arises under 42 U.S.C. § 1983. Jurisdiction is based on 28 U.S.C. §§ 1331
3 and 1343. No issues exist regarding personal jurisdiction or venue, and no parties remain to be
4 served.

5 **2. Facts:**

6 On May 27, 2006 plaintiff Joseph Halbleib was riding his motorcycle westbound on
7 Highway 580, accompanied by his friend Jonathan Bidwell, also riding a motorcycle. Defendant
8 Dale Coppage, a California Highway Patrol (“CHP”) Officer, was on duty on his CHP
9 motorcycle on the same date at or about the same location. Coppage witnessed plaintiff and
10 Bidwell speeding and initiated enforcement action. Coppage conducted a traffic stop on Bidwell,
11 and then pursued Halbleib. Halbleib slowed down and Coppage pulled alongside him and
12 directed Halbleib to pull over. As the two of them were slowing down, Halbleib and Coppage
13 made contact, and Halbleib lost control, fell to the ground, and slid to a stop with his motorcycle
14 on top of him. As a result of this incident, Halbleib allegedly suffered physical and emotional
15 injury.

16 The principal disputed factual issue is that plaintiff contends that Officer Coppage
17 intentionally kicked Halbleib’s motorcycle, causing Halbleib to lose control, while Coppage
18 contends that the two motorcycles collided due to Halbleib’s conduct, or that at most the
19 collision was an accident.

20 **3. Legal Issues:**

21 This is an action arising under the federal Civil Rights Act, 42 U.S.C. § 1983. The
22 Fourth Amendment to the United States Constitution governs searches and seizures and the
23 permissible use of force by a police officer. Thus, if the fact finder concludes that Officer
24 Coppage actually used intentional force to apprehend plaintiff, then he can be found liable under
25 § 1983 if his use of force was not “objectively reasonable” under the circumstances. *Graham v.*
26 *Connor*, 490 U.S. 386 (1989).

27 Plaintiff’s Position: The Fourth Amendment standard applies in this case as it governs
28 all searches and seizures. A seizure occurs whenever an officer applies physical force to

1 effectuate an arrest, or, where that is absent, whenever there is “submission to the assertion of
2 authority.” *California v. Hodari D.*, 499 U.S. 621, 626 (1991). Here, Halbleib was seized as
3 soon as he slowed down in response to Coppage’s directions to pull over.

4 Defendant’s Position: The Fourth Amendment standard applies only to intentional
5 seizures of suspects by means of force “through means intentionally applied.” *County of*
6 *Sacramento v. Lewis*, 523 U.S. 833, 844 (1998). No Fourth Amendment seizure takes place
7 when a police pursuit of a suspect ends in an accidental collision. *Ibid.* In such circumstances,
8 where there is a pursuit with no intentional use of force to effect a seizure, the case is governed
9 by the due process clause of the Fourteenth Amendment. *Id.* at 853-854. Defendant Coppage
10 would thus be liable under § 1983 only if plaintiff establishes that Coppage acted with a “purpose
11 to cause harm” unrelated to a legitimate law enforcement objective such that the officer’s
12 conduct “shocks the conscience.” *Ibid.*; *Moreland v. Las Vegas Metro. Police Dept.*, 159 F.3d
13 365 (9th Cir. 1998).

14 Plaintiff’s pendent state law causes of action (negligence, battery, negligent hiring and
15 supervision, and intentional and negligent infliction of emotional distress) are governed by
16 California state law and the California Tort Claims Act, Gov. Code, § 810, et seq.

17 **4. Motions:**

18 There have been no motions by either side so far. Defendant will file a motion for
19 summary judgment on plaintiff’s state law causes of action, which were filed beyond the statute
20 of limitations under the California Tort Claims Act. Defendant may file a motion for summary
21 judgment on the § 1983 cause of action based on qualified immunity or other grounds.

22 **5. Amendment of Pleadings:**

23 Defendant Michael Brown was previously dismissed voluntarily by plaintiff. No
24 amendments to the pleadings or additional dismissal of parties is anticipated at this time.

25 **6. Evidence Preservation:**

26 The CHP and defendant Coppage have taken steps to preserve all relevant evidence,
27 including electronic evidence. Plaintiff has also taken steps to preserve all relevant evidence.

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1 **7. Disclosures:**

2 The parties have agreed to make their initial disclosures pursuant to Fed. R. Civ. P. 26
3 on or before September 29, 2008.

4 **8. Discovery:**

5 There has been no discovery to date. Defendant Coppage plans to take the deposition
6 of plaintiff Halbleib, as well as his companion Bidwell. Plaintiff Halbleib plans to take the
7 deposition of defendant Coppage. There were also three independent witnesses to the incident,
8 and the parties expect to depose them. The parties also may serve written discovery on each
9 other. Plaintiff also plans to file a *Pitchess* motion (see *Pitchess v. Superior Court*, 11 Cal.3d
10 531 (1974)) to discover any relevant personnel records of the defendant officer prior to this
11 incident.

12 **9. Class Actions:**

13 Not applicable.

14 **10. Related Cases:**

15 There are no related cases or proceedings.

16 **11. Relief:**

17 In his complaint plaintiff prays for general and special damages, and also for punitive
18 damages against defendant. Plaintiff will also claim attorney fees and costs pursuant to 42
19 U.S.C. § 1988 if he prevails on his § 1983 cause of action.

20 The amount of damages sought by plaintiff and the bases on which damages are
21 calculated will be determined according to proof.

22 **12. Settlement and ADR:**

23 The parties are willing to participate in mediation and/or a court-sponsored settlement
24 conference before a Magistrate Judge. The parties have complied with ADR Local Rule 3-5.
25 Depositions of the two parties and the three independent witnesses need to be completed before
26 the parties will be in a position to assess settlement.

27 **13. Consent to Magistrate Judge for All Purposes:**

28 The parties do not consent to a Magistrate Judge for all purposes.

14. Other References:

This case is not suitable for binding arbitration, a special master, or multidistrict litigation.

15. Narrowing of Issues:

At this time, the parties do not believe the issues can be narrowed by agreement. It is too early to assess whether any motions might narrow the issues.

16. Expedited Schedule:

This case is not suitable for expedited handling with streamlined procedures.

17. Scheduling:

The parties propose the following litigation dates:

Fact discovery cutoff	March 13, 2009
Rule 26 expert reports	May 1, 2009
Hearing on dispositive motions	May 29, 2009
Expert depositions completed	June 19, 2009
Pretrial conference	July 7, 2009
Trial	August 4, 2009

18. Trial:

The case will be tried to a jury. The anticipated length of the trial is no more than two weeks (eight court days).

19. Disclosure of Non-party Interested Entities or Persons:

The parties have complied with Civil Local Rule 3-16. The parties have no such interests to report.

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1 **20. Other Matters:**

2 Not applicable.

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4 Dated: September 5, 2008

5 Respectfully submitted,

6 EDMUND G. BROWN JR.
7 Attorney General of the State of California
8 TYLER B. PON
 Supervising Deputy Attorney General

9 _____/S/
10 DAVID W. HAMILTON
 Deputy Attorney General

11 Attorneys for Defendant
12 California Highway Patrol Officer Dale Coppage

13
14
15 Dated: September 5, 2008

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